

REMARKS

Applicants reply to the non final Office Action dated June 11, 2009, within two months. The Examiner rejects all pending claims. Support for the amendments may be found in the originally-filed specification, claims, and figures. Applicants respectfully request reconsideration of the pending claims. **Applicants assert that the amendments further clarify the script format character, so a new search should not be necessary.**

Rejection based on 35 U.S.C. § 112, first paragraph

Claims 5, 7-12, 51-57

In the Final Office Action dated July 31, 2008, the Examiner rejected claims 5, 7-12, 51-57 as failing to comply with the written description requirement of 35 U.S.C. § 112, first paragraph. Applicants' Reply dated September 30, 2008 provided citations to the specification that supported the rejected subject matter and respectfully requested withdrawal of that rejection. In the Office Action dated December 5, 2008, the Examiner made no comment on the status of that rejection. In Applicants' Reply of February 19, 2009, Applicants noted that the § 112 rejection was not mentioned in the Office Action dated December 5, 2008. Also in the Reply of February 19, 2009, Applicants expressed that Applicants took the omission of any reference to the § 112 rejection in the Office Action dated December 5, 2008 to mean that the Examiner had found Applicants' arguments and citations to the specification persuasive and, accordingly, Applicants respectfully requested an explicit statement of withdrawal of the rejection. In the outstanding Office Action, the Examiner makes no reference to the § 112 rejection. On June 2, 2009, Applicants' patent counsel and the Examiner held a telephonic conversation wherein the Examiner requested citations to the specification to support claims 5 and 58. Applicants' patent counsel cited present paragraph [0101]. In addition, Applicants noted that the present application claims priority of U.S. Provisional Patent Application No. 60/165,577. Applicants further noted that, for example, claims 5 and 58 are supported on p. 72 of the '577 provisional application. In addition, Applicants' patent counsel noted that p. 24-25 (labeled p. 22-23 as filed) of the '577 provisional application supports claim 5 as well.

Applicants again take the Examiner's omission of reference to any § 112 rejection in the outstanding Office Action to mean that the Examiner has withdrawn the rejection. If so, Applicants thank the Examiner for the same and respectfully request an explicit statement of withdrawal of the rejection so that the record is unambiguous in this regard.

However, if the rejection still stands, in an effort to fully Reply to the outstanding Office Action, Applicants respectfully traverse the rejection and ask the Examiner to consider Applicants comments made in the September 30, 2008 Reply and in the June 2, 2009 telephonic conversation.

Rejection based on 35 U.S.C. § 103(a)

Claims 5, 8-12 and 51-59

The Examiner rejects claims 5, 8-12 and 51-59 as unpatentable over US Patent No. 6,230,288 to Kuo et al ("Kuo") in view of US Patent No. 6,272,641 to Ji et al ("Ji"). Applicants respectfully traverse this rejection as set forth below.

Kuo teaches the "cleaning" or standardizing of whitespace characters to standardize text files before scanning for a virus. See Abstract, FIG 2, col. 5, lines 20-40. Kuo discloses that a text file may have many combinations of whitespace characters but still contain the same text. See col. 2., lines 38-57. As Kuo describes, during or after insertion of a virus into a text file, whitespace characters may be altered in a variety of ways. Id. A virus scanner, while scanning a text file against known virus signatures, may have trouble identifying a virus due the context provided by the whitespace characters. Kuo's method involves transforming every whitespace character with a single whitespace character. See col. 5, lines 20-40. In other words, Kuo replaces a variety of different whitespace characters with a "single, known character." See col. 5, line 27.

Ji discloses an applet scanner that scans Internet-obtained applets for appropriate marking with additional security monitoring. See Abstract. Ji's invention involves a scanner that scans applets for "problematic" code. See col. 3, lines 25-30. If such code is found, Ji's scanner then "marks" the problematic code, which may include the insertion of additional code. See col. 3, lines 27-34. Upon execution of the applet on the client, the "marked" code is monitored for compliance with a security policy. See col. 3, lines 47-58.

The Examiner asserts that Kuo's disclosure of removing whitespace characters discloses, at least, "at least one of editing and removing at least a portion of said executable commands" as recited in claim 1. The Examiner asserts that whitespace characters comprise a portion of the executable command. Applicants submit that a whitespace character is not, at least, "a portion of said executable commands," but is merely an extraneous ASCII character that may exist adjacent to executable commands. Kuo discloses whitespace cleaning so that scanning for a virus is not inhibited by whitespace characters. Indeed, if whitespace characters did comprise a portion of a virus, removing them prior to scanning would interfere with the scan itself, as the known virus signature definitions would likely include the whitespace characters to aid in identification. Accordingly, Kuo discloses

cleaning **around** a virus as opposed to at least, “at least one of editing and removing at least a portion of said executable commands” as recited in claims 5 and 57.

The Examiner asserts that Ji discloses at least, “at least one of editing and removing at least a portion of said executable commands” as recited in claims 5 and 57, through Ji’s disclosure of marking problematic code with a special code sequence, which then is monitored for compliance with a security policy. See Ji col. 3, lines 47-58. The Examiner asserts that placing a special code sequence adjacent to problematic code is, in fact, modification of the problematic code itself. As previously noted, although Ji teaches insertion of code **near** “problematic” code; Ji does not teach modification of the problematic code **itself**. Ji is not altering the problematic code at all, but instead is annotating the code for later evaluation in a run time environment. After Ji’s insertion of special codes in front of problematic code, the instructions the problematic contains still remain in executable form. Further, Ji contemplates **execution** of at least a portion of the executable code, albeit under monitoring. Accordingly, Ji does not disclose or contemplate at least, “at least one of editing and removing at least a portion of said executable commands” as recited in claims 5 and 57.

The Examiner asserts that Ji discloses at least, “at least one of editing and removing at least a portion of said executable commands such that said executable commands still remain in said trusted portion, but cannot be executed by said network client,” as recited in claims 5 and 57. The Examiner asserts that Ji discloses that code that violates a security policy is not executed. While Ji discloses that “[i]f the security policy (which has been pre-established) is violated, that particular instruction which violates the security policy is not executed,” Applicants note that, as Ji discloses, the suspect code **may** be executed (i.e., it is still in executable form) but that it is selected, by way of the special code portion, to **not** be executed. Further, as described above, Ji does not disclose editing suspect code itself. Accordingly, Ji does not disclose or contemplate at least, “at least one of editing and removing at least a portion of said executable commands such that said executable commands still remain in said trusted portion, but **cannot** be executed by said network client,” as recited in claims 5 and 57. [emphasis added].

Further, claim 58 includes, at least, “wherein said editing comprises converting a script format character to another character.” The Examiner asserts that Kuo, claim 12, anticipates this element. However, Kuo’s claim 12 only discloses, “reformatting the contents of the computer file to convert a sequence of whitespace characters into a single code.” Whitespace characters do not encode a signal for code to execute. Accordingly, Kuo does not disclose or contemplate, “wherein said editing

comprises converting a script format character to another character, wherein said script format character encodes a signal to execute code," as recited in claim 58.

Dependent claims 8-12 and 51-59, variously depend from independent claim 5, so Applicants assert that dependent claims 8-12 and 51-59 are patentable for at least the same reasons for differentiating the independent claim 5, as well as in view of their own respective features. Independent claim 57 contains similar language as claim 5. Accordingly, Applicants respectfully submit that this rejection be withdrawn.

Claims 11-12

The Examiner rejects claims 11-12 as unpatentable over Kuo in view of Ji and U.S. Patent to 6,272,641 to Guheen et al ("Guheen"). Applicants respectfully traverse this rejection as set forth below.


Kuo and Ji are discussed above. Guheen is discussed in previous Replies, notably the April 17, 2008 Reply to Office Action. Guheen generally discusses testing of electronic systems. The teachings of Guheen do not cure the deficiencies of Kuo and Ji. Moreover, dependent claims 11-12, variously depend from independent claim 5, so Applicants assert that dependent claims 11-12 are patentable for at least the same reasons for differentiating the independent claim 5, as well as in view of their own respective features.

Conclusion

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account No. 19-2814. **This statement does NOT authorize charge of the issue fee.**

Respectfully submitted,

Date: 8/7/09

By:  60,478 on Behalf of A
Howard I. Sobelman, Reg. No. 39,038

SNELL & WILMER L.L.P.
One Arizona Center, 400 East Van Buren
Phoenix, AZ 85004-2202
Phone: (602) 382-6228 / Fax: (602) 382-6070
Email: hsobelman@swlaw.com